

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

JOHN COSBY,

Plaintiff,

v.

ORDER  
04-CV-941A

SUPERINTENDENT JAMES CONWAY, et al.,

Defendants.

---

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On February 2, 2006, Magistrate Judge Scott filed a Report and Recommendation, recommending that the motion to dismiss the original complaint be denied without prejudice as moot.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the motion to dismiss the original complaint is denied without prejudice as moot.

The case is referred back to Magistrate Judge Scott for further proceedings.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: February 27 , 2006